

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:
:
:
Mad Hatter CT Ave, LLC, :
t/a Mad Hatter :
1321 Connecticut Ave, NW : Fact Finding
Retailer CT - ANC 2B : Hearing
License No. 82646 :
Case #18-251-00233 :
:
(Simple Assault) :

Wednesday,
February 27, 2019

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Donovan W. Anderson, presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:

ANDREW KLINE, Licensee's Attorney
ERIC HEIDENBERGER, Managing Partner of Licensee
INVESTIGATOR EARL JONES, ABRA
OFFICER MALIK GOSHA-JORDEN, MPD

1 P-R-O-C-E-E-D-I-N-G-S

2 10:18 a.m.

3 CHAIRPERSON ANDERSON: We are back on  
4 the record. Our next case is Case No., is a  
5 Fact-Finding Hearing, 18-251-00233, Mad Hatter,  
6 License No. 82646.

7 Will all parties, please, approach and  
8 identify themselves for the record, please?

9 MR. KLINE: Good morning. Andrew  
10 Kline on behalf of the licensee.

11 CHAIRPERSON ANDERSON: Good morning,  
12 Mr. Kline.

13 MR. HEIDENBERGER: Good morning. Eric  
14 Heidenberger, managing partner for Mad Hatter.

15 CHAIRPERSON ANDERSON: Good morning,  
16 Mr. Heidenberger.

17 INVESTIGATOR JONES: Investigator  
18 Jones with ABRA.

19 CHAIRPERSON ANDERSON: Good morning,  
20 Mr. Jones.

21 INVESTIGATOR JONES: Good morning.

22 CHAIRPERSON ANDERSON: All right.

1 This is a Fact-Finding Hearing regarding a  
2 matter. Can you identify yourself, sir?

3 OFFICER GOSHA-JORDEN: I'm Officer  
4 Jordan from the 2nd District, Metropolitan Police  
5 Department.

6 CHAIRPERSON ANDERSON: Officer what?

7 OFFICER GOSHA-JORDEN: Officer Jordan.

8 CHAIRPERSON ANDERSON: Jordan. Good  
9 morning, sir.

10 All right. This is a Fact-Finding  
11 Hearing. Please know that this is not an  
12 adversarial hearing, but rather an opportunity  
13 for the licensee to explain the incident to the  
14 violation and what, if any, steps have been taken  
15 to address the situation.

16 Fact-Finding Hearings will also allow  
17 the Board to more fully explore any questions  
18 that they might have regarding the incident.

19 So, Mr. Jones, can you bring us up to  
20 speed about what incident that occurred at the  
21 Mad Hatter?

22 INVESTIGATOR JONES: Yes, sir. On

1 Sunday, November 25, 2018, at approximately 12:30  
2 a.m., I received an ABRA Hotline call with  
3 reference to MPD advising that there was a simple  
4 assault that took place inside of Mad Hatter  
5 located at 1321 Connecticut Avenue, N.W.

6 The specifics of the call were not  
7 detailed. However, they did indicate that they  
8 did not know if the establishment was ABRA-  
9 licensed.

10 When I arrived, I met with Officer  
11 Jorden and we both entered the establishment and  
12 spoke with General Manager Jose Gonzalo. In  
13 talking to Mr. Gonzalo, he advised that two male  
14 patrons along with a female patron were involved  
15 in a verbal altercation that quickly escalated  
16 into a physical altercation.

17 Mr. Gonzalo advised that the female  
18 patron initiated the altercation between two  
19 males, which ultimately resulted in one of the  
20 male patrons receiving a laceration to his hand.  
21 Mr. Gonzalo advised that the altercation was  
22 diffused by security members and that the suspect

1 was escorted out the front entrance with the  
2 victim being escorted towards the rear exit.

3 Mr. Gonzalo stated that once outside,  
4 the victim left on his own and did not appear to  
5 be injured in any way. Mr. Gonzalo stated a few  
6 moments later the victim and his friend returned  
7 and advised that he had suffered an injury to his  
8 hand.

9 Mr. Gonzalo stated that the victim was  
10 brought back inside the establishment, given aid  
11 to his hand and MPD was then notified.

12 I requested a copy of this footage  
13 which verified what Mr. Gonzalo did say or did  
14 report to myself. And on November 26, 2018, MPD  
15 sent a letter to ABRA requesting a Fact-Finding  
16 Hearing with reference to this incident. The  
17 letter was referencing issues concerning  
18 management's ability to protect the safety and  
19 health of Mad Hatter's patrons.

20 CHAIRPERSON ANDERSON: All right.  
21 Based on your investigation, did you determine  
22 whether or not any ABRA violations occurred?

1                   INVESTIGATOR JONES: No. We did see  
2 the license just prior to leaving. All the  
3 licenses were current and up to date. From what  
4 we advised, I told him that I did need to see the  
5 surveillance footage before I could determine if  
6 there were any violations that were to be found.

7                   After reviewing the footage, after  
8 receiving the footage and reviewing it,  
9 everything that Mr. Gonzalo said appeared to be  
10 on the footage, so I didn't see any issues that I  
11 could observe at that time, sir.

12                   CHAIRPERSON ANDERSON: And, I mean,  
13 based on your investigation, did you believe that  
14 they acted, at least in your opinion,  
15 appropriately?

16                   INVESTIGATOR JONES: I did. When he--  
17 as I went back several times to speak with him to  
18 see if his story would change with reference to  
19 the patron being hurt and it didn't. His story  
20 was consistent. I attempted to contact the  
21 victim, but never received any call back from the  
22 victim. But his story was consistent with him

1 being injured only after they returned with the  
2 friend, but once they initially left, he didn't  
3 appear to be injured. He didn't say that he was  
4 hurt. And he wanted to leave on his own  
5 recognizance.

6 CHAIRPERSON ANDERSON: All right.  
7 Thank you. Officer Gosha-Jorden, am I correct?

8 OFFICER GOSHA-JORDEN: Gosha-Jorden.

9 CHAIRPERSON ANDERSON: Gosha-Jorden,  
10 what, if anything, can you add, sir? Were you  
11 the responding officer?

12 OFFICER GOSHA-JORDEN: Yes.

13 CHAIRPERSON ANDERSON: All right.

14 OFFICER GOSHA-JORDEN: I mean, the  
15 only thing I can really add is that the only  
16 complaint I really heard was that the victim's  
17 girlfriend said that she asked them to call and  
18 they said that they pretty much did. That's what  
19 the victim's girlfriend said.

20 CHAIRPERSON ANDERSON: Okay. Is this  
21 part of your regular beat or you just happened to  
22 be there when this --

1                   OFFICER GOSHA-JORDEN: Yes, this is  
2 part of our regular beat.

3                   CHAIRPERSON ANDERSON: So what, if  
4 anything, can you tell us about just generally  
5 what type of operation does the Mad Hatter run,  
6 at least from MPD's perspective? And the reason  
7 I'm asking that is because the Chief of Police  
8 asked us to have a Fact-Finding Hearing. So if  
9 you have any information you can provide?

10                  OFFICER GOSHA-JORDEN: I mean, I have  
11 only been in this area since about October, so I  
12 mean, since I've been there, we haven't had too  
13 many issues with Mad Hatter.

14                  CHAIRPERSON ANDERSON: Okay.

15                  OFFICER GOSHA-JORDEN: I mean, I think  
16 the main thing is with the establishments is they  
17 usually let people leave before we get there and  
18 then that's the problem that we run into. It's  
19 like they don't identify people, so, you know,  
20 usually the suspect is the one that leaves,  
21 because, you know, they know that we are coming.  
22 So that's really all. I mean, that's kind of



1 across the board.

2 CHAIRPERSON ANDERSON: Explain it  
3 again one more time for me, please. You are  
4 saying that an incident occurred, that -- so you  
5 are saying when an incident occurs, that they  
6 normally allow the folks to leave, so that  
7 impedes whatever investigation you can have. Is  
8 that what you are saying?

9 OFFICER GOSHA-JORDEN: Yes, right.

10 CHAIRPERSON ANDERSON: All right.

11 Thank you. Anything you want to add?

12 OFFICER GOSHA-JORDEN: No.

13 CHAIRPERSON ANDERSON: All right. Mr.  
14 Kline?

15 MR. KLINE: Yes. Mr. Chairman, based  
16 on an incident that occurred on 9th Street several  
17 years ago, I don't think any of our clients are  
18 going to be preventing anyone from leaving any  
19 establishment, if that's the suggestion. I mean,  
20 in terms restraining an individual who has been  
21 involved in a crime, we certainly would not  
22 recommend that our clients do that.

1                   There was a death in the licensed  
2                   establishment a number of years ago, it turned  
3                   out the establishment was not at fault, but that  
4                   would be something that we would not recommend,  
5                   even though there is the right to make a  
6                   citizen's arrest. So in terms of that issue, I  
7                   would put that aside.

8                   It may be that the victim and the  
9                   girlfriend were not communicating. The one thing  
10                  I want to add is there is an incident report that  
11                  was done internally. They have -- they own a  
12                  number of places around town, obviously, from the  
13                  manager's logs. And if I may, I would like to  
14                  pass this up.

15                  CHAIRPERSON ANDERSON: Sure.

16                  MR. KLINE: Which is just a short  
17                  description. According to the information in the  
18                  manager's log, the victim did not want them to  
19                  call MPD. He was afraid of having to pay for an  
20                  ambulance. He didn't want them to call. They  
21                  ultimately exercised their own judgment and said  
22                  well, we don't care. We are going to call

1           anyway.  You are injured and you need attention.  
2           We are going to do that.

3                       So this notion that they refused to  
4           call an ambulance, I mean, the girlfriend says  
5           that and we have no idea where that is coming  
6           from, based on the investigation that was done by  
7           the establishment.

8                       CHAIRPERSON ANDERSON:  Yes?

9                       MR. HEIDENBERGER:  I just wanted to  
10          add something.  So I mean, it's possible.  You  
11          know, drunk people a lot of times don't  
12          communicate well.  But one thing I do want to add  
13          is I do see instances where an establishment say  
14          somebody doesn't pay a tab or something like  
15          that, they seem to find a way to, you know, keep  
16          them around until we get there in those  
17          instances.

18                      MEMBER SILVERSTEIN:  Yeah.

19                      MR. KLINE:  I don't know if we are  
20          talking specifically about this place or not.  I  
21          mean, if we are talking in general, I'll say -- I  
22          mean, I will say that one thing that is troubling

1 about the Chief's letter is there seems to be a  
2 suggestion well, there is a lot of calls to  
3 police.

4 Now, I want to address that. One of  
5 the reasons for that is the Department has done a  
6 very good job of policing that block and it so  
7 happens that Mad Hatter is in the middle of the  
8 block and the officers are generally around  
9 there, so it's quite possible that that's the  
10 address that is given when they are called.

11 But there is this quandary and we have  
12 all heard it for years, that establishments say  
13 well, you know, if we call the police, we are  
14 going to get in trouble. And this Board has done  
15 a very good job of assuring that is certainly not  
16 the case.

17 But the Chief's letter seems to send  
18 a different message and it's not, obviously,  
19 anything that this Board can do anything about,  
20 but we intend to raise that through other  
21 channels, because we don't think that the Chief  
22 of Police should be sending the message to

1 discourage establishments from calling the  
2 police. And that's what this letter seems to do.

3 CHAIRPERSON ANDERSON: Well, let me  
4 ask you. I guess the question that you --

5 MR. KLINE: I think the point is there  
6 was an incident. There was reaction by the  
7 establishment. They handled it appropriately.  
8 They separated the parties that were involved.  
9 They did what is good practice, which was to send  
10 one group out the front door and hold the other  
11 group and send them out the back door.

12 And then when it was determined that  
13 there was need for medical assistance, they  
14 called for medical assistance.

15 MEMBER ALBERTI: Can I ask a question?

16 MR. KLINE: They had the appropriate  
17 number of security people on-site. And this  
18 isn't just a tale. It was -- the video, was as  
19 it is supposed to be, available. It was  
20 reviewed. And the video confirmed exactly what  
21 the establishment said went on.

22 CHAIRPERSON ANDERSON: Go ahead, Mr.

1 Alberti.

2 MEMBER ALBERTI: So that's a great  
3 lead-in to my question, Mr. Kline. So I haven't  
4 seen the video and so I am going to rely on the  
5 Investigators. My question is having seen the  
6 video, is it apparent that this was an assault or  
7 could it have been interpreted as a fight between  
8 two parties, even though one of them started it?

9 So if it was obviously an assault,  
10 then I would expect the licensee, not necessarily  
11 to hold anyone, but to at least call the police  
12 and say we just had an assault.

13 But if it wasn't obviously an assault,  
14 then I'll agree that they probably handled this  
15 appropriately. But I haven't seen the video, so  
16 I have to ask you all, the Investigators, what  
17 your interpretation is.

18 INVESTIGATOR JONES: Well, from my  
19 interpretation, it was a slow moving type of  
20 thing and then once it kicked off, it went  
21 quickly and then security jumped in quick. There  
22 was a female that was instigating this issue

1 between two other guys. The guys were kind of  
2 being very nonchalant about it. One was a little  
3 agitated, but she kept agitating him.

4 And the other guy it appears that it  
5 was the kind of thing where he looked to be kind  
6 of walking off or he was just kind of -- he was  
7 still in the area, but he was kind of not really  
8 paying attention and then suddenly she just kind  
9 of got in the middle of it, pushed him, then the  
10 other guy swung and hit him and then they both  
11 hit the floor.

12 MEMBER ALBERTI: Okay.

13 INVESTIGATOR JONES: And then security  
14 jumped in.

15 MEMBER ALBERTI: So it wasn't  
16 obviously an assault. So I would have to agree  
17 from what I'm hearing is that the licensee, it  
18 appears to me anyway, handled it appropriately.  
19 And I just wanted to make sure I understood.  
20 Thank you.

21 MR. KLINE: Yeah, I mean, we  
22 understand that. And obviously, it's a fine

1 line.

2 MEMBER ALBERTI: Right it is.

3 MR. KLINE: I don't think we want to  
4 say -- I mean, an assault is any unpermitted  
5 touching. I mean, that's the definition of an  
6 assault legally. I don't think we want  
7 establishments calling MPD every time there is an  
8 assault under the legal definition.

9 MEMBER ALBERTI: You are absolutely  
10 right. But we have establishments who witness  
11 assaults, but don't call, so I had to ask the  
12 question.

13 MR. KLINE: No, no --

14 MEMBER ALBERTI: I'm not saying they  
15 should have.

16 MR. KLINE: Yes.

17 MEMBER ALBERTI: But I'm advocating  
18 for the call at the time saying we just need to  
19 figure that out.

20 CHAIRPERSON ANDERSON: So I'm reading  
21 the report that you gave Mr. Kline and it says  
22 that "Police report was filed, so we will get a



1 follow-up very soon." What does that statement  
2 mean? That's from your incident report.

3 MR. KLINE: Right. Well, we  
4 understand that to mean the police came and they  
5 took a report, so that there would be follow-up  
6 based on the report. I mean, these owners have  
7 several establishments. They know when a police  
8 report is generated concerning one of their  
9 establishments, all ABC-licensed establishments  
10 that the report will then be forwarded to the  
11 Board for follow-up.

12 CHAIRPERSON ANDERSON: But I guess the  
13 question I'm asking because how did your  
14 establishment, how did the establishment know  
15 that a police report was filed, if they didn't  
16 file one?

17 MR. KLINE: The police came. They  
18 took a report. The officer, Officer Jordan was  
19 there.

20 CHAIRPERSON ANDERSON: No, the reason  
21 -- I guess the reason -- if one was to read this,  
22 it would appear that the establishment was the

1 one who called the police, when they said the  
2 police report was filed, because part of the  
3 issue is that the -- at least what I'm hearing --  
4 what I'm getting from the report is that the  
5 establishment wanted to call an ambulance. The  
6 person didn't want to do the ambulance. And so  
7 I'm taking -- I'm extrapolating that the  
8 establishment didn't call the police or didn't  
9 call an ambulance because the individual did not  
10 want that to occur.

11 So when I'm reading your report and it  
12 says that the police report was filed, that kind  
13 of gives -- because it's coming from the  
14 establishment, it gives the impression that the  
15 establishment called the police. That's all I'm  
16 saying.

17 Because if I'm just reading the  
18 statement, it gives the implication that the  
19 establishment is the one who called the police,  
20 that's all.

21 MR. KLINE: The establishment did call  
22 the police.

1 CHAIRPERSON ANDERSON: I'm sorry?

2 MR. KLINE: The establishment did call  
3 the police.

4 CHAIRPERSON ANDERSON: No, but I  
5 thought that the report said -- at least the  
6 report said from the victims that the  
7 establishment didn't call the police.

8 MR. KLINE: No, the girlfriend said  
9 the establishment didn't call the police, but  
10 based on the interview that was done at the time,  
11 management said yeah, the police was called.

12 CHAIRPERSON ANDERSON: All right. All  
13 right. Yes, Mr. Silverstein?

14 MEMBER SILVERSTEIN: There is a lot of  
15 things going on here. I think, Mr. Kline, your  
16 comments about 9th Street ring true to me. I  
17 believe that was the DC-9 Case that you were --

18 MR. KLINE: Yes, sir.

19 MEMBER SILVERSTEIN: -- holding a  
20 person or laying hands on a person against their  
21 will, in a case like this it's not the kind of  
22 thing that one would want to do lightly. And if

1 you are in that situation, you err on the side of  
2 not touching, not restraining, not holding a  
3 person.

4 As far as the number of calls for  
5 service, this establishment is in the 1300 Block  
6 of Connecticut Avenue, right smack in the middle  
7 of club central. There are police literally on  
8 your door all the time, whether you make a phone  
9 call or simply look outside and say hey, we need  
10 some help, it's one of those situations where  
11 it's not always necessary to dial 911.

12 That can be superfluous and a waste of  
13 time. And also with all that is going on, calls  
14 for service may and often do involve what is  
15 going on outside. You have to have an address  
16 and that is the address that you are using.

17 Is there anything that you guys feel  
18 that anyone fell short on? Anything that can be  
19 learned or do we believe simply that this was an  
20 unfortunate incident and it was handled properly?

21 MR. KLINE: We think it was handled  
22 properly. I mean, we think that, as I said

1 before, the establishment had the requisite  
2 number of security people. They reacted as soon  
3 as they realized that the situation had  
4 escalated, separated the people, sent them out  
5 through separate doors as is appropriate.

6 And when it was learned that someone  
7 needed medical attention, called for medical  
8 attention.

9 MEMBER SILVERSTEIN: Mr. Jones,  
10 Officer, anything you feel that they --

11 INVESTIGATOR JONES: I mean, knowing--

12 MEMBER SILVERSTEIN: Knowing that, you  
13 know, a lot of this is just a judgment call at  
14 the time.

15 OFFICER GOSHA-JORDEN: Yes, I mean, I  
16 think they handled it, you know, as best as they  
17 could.

18 MEMBER SILVERSTEIN: Thank you, sir.

19 CHAIRPERSON ANDERSON: Any other  
20 questions by any other Board Members?

21 Mr. Jones, any final comments you want  
22 to make?

1                   INVESTIGATOR JONES: No, sir. I think  
2 the -- well, I will say this. I think the only  
3 thing that -- and I know that per our, the way  
4 that we handle things is we would like to have  
5 some sort of footage, if we can get it within 48  
6 hours. But I would kind of -- and I know that  
7 you can't mandate this, but I would at least like  
8 to have or become that there be making some sort  
9 of footage that could be reviewed at that time or  
10 can be saved to kind of save time and to also be  
11 able to get things done in a really expeditious  
12 type of manner.

13                   But other than that, I think that they  
14 did -- I think they handled the situation the  
15 best that they could.

16                   CHAIRPERSON ANDERSON: All right.  
17 Thank you. Officer, any final comments you want  
18 to make?

19                   OFFICER GOSHA-JORDEN: No.

20                   CHAIRPERSON ANDERSON: All right. Mr.  
21 Kline?

22                   MR. KLINE: I don't have anything

1 further at this point. I think we have covered  
2 it.

3 CHAIRPERSON ANDERSON: All right.  
4 Thank you.

5 I will make a recommendation to the  
6 Board that we take no further action on this  
7 matter.

8 MEMBER SILVERSTEIN: Second.

9 CHAIRPERSON ANDERSON: Mr. Silverstein  
10 has seconded the motion.

11 All those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON ANDERSON: So the Board  
14 voted 4-0-0 that no further action on this  
15 matter.

16 Thank you for being here today.

17 MR. KLINE: Thank you.

18 OFFICER GOSHA-JORDEN: Thank you.

19 CHAIRPERSON ANDERSON: Thank you.

20 Have a good day.

21 (Whereupon, the Fact-Finding Hearing  
22 was concluded at 10:39 a.m.)

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